

REPORT - PLANNING COMMISSION MEETING
March 13, 2003

Project Name and Number: Marshall Parkland Acquisition (PLN2003-00160)

Applicant: City of Fremont

Proposal: To consider a City-initiated General Plan conformity finding for parkland acquisition and a Conditional Use Permit to allow for the establishment of a public park on land zoned for residential use on a 7.6±-acre portion of the former Marshall Elementary School site (10.26-acre).

Recommended Action: Find that the proposed parkland acquisition is consistent with the General Plan and recommend acquisition of the proposed site to the City Council; and Approve a Conditional Use Permit to allow for the establishment of a park on land zoned for residential use, subject to findings and conditions.

Location: 5301 Curtis Street

Assessor Parcel Number(s): 7.6 ±-acre portion of 531-0219-014-00 (10.26 acres)

Area: 7.6± acres

Owner: Fremont Unified School District (FUSD)

Agent of Applicant: Amy Rakley, Parks Planning Manager, City of Fremont

Consultant(s): The Consulting Group (Phase I—Environmental Assessment)

Environmental Review: A Negative Declaration has been prepared for this project.

Existing General Plan: Low Density Residential (5-7 DU/AC); E-Elementary School

Existing Zoning: R-1-6, Single Family Residence District

Existing Land Use: Four ball fields, several accessory structures, batting cages, a parking lot and grassy fields used for recreation

Public Hearing Notice: Public hearing notification is applicable. A total of 155 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Poppy Court, Marietta Drive, Torenia Circle, Omar Street, Curtis Street, and among others. The notices to owners and occupants were mailed on March 3, 2003. A Public Hearing Notice was delivered to The Argus on February 26, 2003 to be published by March 3, 2003.

Executive Summary: The Planning Commission is being asked to recommend to the City Council a finding of General Plan conformity to acquire parkland. The Commission is also being asked to approve a Conditional Use Permit to allow for the establishment of said land acquisition as a public park on land currently zoned for residential use. The Conditional Use Permit will allow for immediate use of the facilities located on the site in question for the current recreation needs of the community.

Previous Actions: None

Background: The site is approximately 10.26 acres and was formerly occupied by the Marshall Elementary School, a Fremont Unified School District (FUSD) elementary school in the Irvington area. Currently, the site consists of school buildings, four unlit ball fields with accessory structures and a parking lot. The site abuts the Marshall Neighborhood Park

to the southwest and is adjacent to residential single-family homes on all other sides. FUSD presently leases out the school buildings to a private school for educational instruction reserving the site to accommodate additional FUSD students if needed in the future. Additionally, under a maintenance agreement since 1965, the Fremont American Little League uses the four ball fields for practice and ball games for approximately 320 children from February to August.

Project Description: The Planning Commission is being asked to recommend a finding of General Plan conformity for parkland acquisition to the City Council and approve a Conditional Use Permit. A General Plan conformity finding is required by State law to allow for the acquisition of approximately a $7.6 \pm$ acre portion of the 10.26 acre-lot owned by FUSD. The 10.26-acre lot presently consists of school buildings, four ball fields, and several accessory structures, batting cages, two parking lots and grassy fields. The lot will be subdivided into two parcels. The first parcel, Lot A, which includes all of the school buildings and one of the two parking lots directly in front of the school, will be retained by the FUSD. The City will purchase the second parcel, Lot B, approximately $7.6 \pm$ acres for parkland. Lot B will be immediately adjacent to the Marshall Neighborhood Park and will consist of four ball fields, a parking lot (south of Lot A), several accessory structures, batting cages, and grassy fields used for recreation. The acquisition will maintain public ownership of recreational facilities used by the community and will result in the expansion of Marshall Neighborhood Park. There are no proposed improvements included as part of the project at this time. A Conditional Use permit is requested to allow for the establishment of a park on land zoned for residential use. A parcel map subdivision will be required to acquire the site.

Parkland Acquisition: State Government Code (Section 65402) requires a municipality acquiring real property for the dedication of parkland to find that the acquisition is in conformance with its adopted General Plan. The Planning Commission must first make a recommendation to the City Council as to the proposed project's consistency with applicable land use plan, policies, or regulations of the General Plan. Based upon that recommendation, the City Council will make a decision on the purchase of the property.

Zoning/General Plan Conformance: The existing General Plan designation for the proposed land acquisition is Low Density Residential, 5-7 Dwelling Units/Acre. The zoning designation for the proposed land acquisition is R-1-6, Single-family Residence District. The purpose of the R-1 district is to "stabilize and protect the residential characteristics of the district and to promote and encourage a suitable environment for family life". The purpose of establishing a public park in the R-1 district is consistent with that purpose and is considered an appurtenant use for family life. Thus, pursuant to Section 8-2603 [Conditional Uses: Planning Commission as the reviewing agency.], the establishment of a park on land zoned for residential is conditionally permitted in this district, requiring the approval of a Conditional Use Permit (CUP).

Approval of the CUP will allow the City to establish parkland for public use at the proposed site currently zoned for residential use. The CUP will also provide for a continuation of the existing uses at the site, such as the activities sponsored by the Fremont American Little League. No additional improvements or city-sponsored activities are proposed at this time.

Generally, the City conducts a general plan amendment and rezoning of sites acquired for public parks to an Institutional Open Space designation and an applicable Open Space zoning district, respectively. However, such sites when acquired are usually unimproved or need some degree of improvements, resulting in no need for immediate public use of the land acquired. As a result, this affords staff sufficient time to process a General Plan Amendment and rezoning. However, the site proposed for acquisition is fully improved and is currently being used by the community. Thus, approval of the CUP will satisfy the site's current R-1 zoning district regulations to allow the immediate establishment of park already improved with ball fields and a parking lot. A General Plan Amendment and rezoning for the site will be processed at a later time. Findings for approval of the Conditional Use Permit are included as Exhibit "C" for the Planning Commission.

The project implements the following Fundamental Goals of the General Plan:

- **Fundamental Goal F-8: A Diversity of Residential, Recreational, Cultural, Employment and Shopping Opportunities**
- **Fundamental Goal F-10: Public Services Responsibly Managed and Equitably distributed Throughout the City of Fremont**
- **Fundamental Goal F-12: Parks, Recreational Facilities and Opportunities**

Staff Comment: FUSD's surplus land provides an opportunity for the City to enlarge the existing 5.5-acre Marshall Neighborhood Park. The proposed land acquisition and Conditional Use Permit required for establishment of a park use on land currently zoned for residential use would provide a larger neighborhood park in a fully developed residential area that would benefit from such amenities. The existing Neighborhood Marshall Neighborhood Park would substantially increase in size from 5.5 acres to 13.1± acres.

- **Parks and Recreation Goal 1: Parks and recreation facilities to meet the community's needs**

Policy PR.1.1.2: *The City's standard for acquisition and development of parkland shall be five (5) acres per one thousand (1,000) population.*

Staff Comment: The General Plan provides that, "Opportunities for the development of new parks will be pursued where land is available." The surplus land offered by FUSD provides an opportunity to both increase the size of an existing park and add to the overall acreage in the City's park system.

- **Parks and Recreation Goal 2: park lands and recreation facilities to reflect Fremont's image and identity**

Policy PR2.1.2: *Acquire and develop new parklands and recreation facilities consistent with the Parks and Recreation Master Plan.*

Staff Comment: The City's Recreation Commission will review the proposed land acquisition according to the "Criteria for Selection of Park Sites" in the City's "Parks and Recreation Master Plan". The specific criteria are: conformance with City of Fremont policies, physical configuration, topography, encumbrance, access, environmental constraints, compatibility with surrounding land uses, and operations, maintenance and supervision costs and impacts. Staff will recommend that the Recreation Commission recommend to the City Council that the proposed project is consistent with these criteria.

- **Parking:** The proposed project also includes a paved parking lot having access off of Curtis Street. All park users, including those participating in the Little League games, can use this parking lot. The parking lot helps to reduce the use of adjacent public streets by park users.
- **Circulation/Access Analysis:** The primary access to the proposed project is from Curtis Street. However, the site also provides pedestrian and bicycle access from Marietta Drive and Torenia Circle to the northwest. Residents in the neighborhood to the north also have pedestrian and bicycle access to the site through gateways in the fence line boarding the northern boundary of the project site.
- **Noise:** The site proposed for acquisition is currently being used by youth and adult ball leagues and for passive recreation by the neighborhood in general. The baseball fields do not have lighting for night games; thus, there are no noise impacts from evening use of the site. The Conditional Use Permit requested will also provide for a continuation of the existing uses at the site. No additional improvements or city-sponsored activities are proposed at this time, therefore there will not be any increase in noise levels. Any new organized and programmed activities will be reviewed, approved and monitored by Recreation Services staff. This practice is consistent with the operations and management of all parks within the City's park system.

Environmental Analysis: An Initial Study and Draft Negative Declaration, has been prepared for this project. The environmental analysis concluded that the proposed project would not have a significant effect on the environment. Because no improvements are proposed at this time, no mitigation measures are necessary. The Draft Negative Declaration is included for consideration by the Planning Commission.

The initial study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval by the City Council, as required by Public Resources Code section 21089

(see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

Response from Agencies and Organizations: As of the date of this report, only one correspondence was received from the Valley Transportation Authority who had reviewed the Draft Negative Declaration and had no comments at this time.

Enclosures: Exhibit "A" (Site Plan)
Exhibit "D" (Initial Study and Draft Negative Declaration)

Exhibits: Exhibit "A" (Site Plan)
Exhibit "B" (Findings for General Plan Conformity for Parkland Acquisition)
Exhibit "C" (Findings and Conditions of Approval for Conditional Use Permit: Establishment of public park at 5301 Curtis Street)
Exhibit "D" (Initial Study and Draft Negative Declaration)

Recommended Actions:

1. Hold public hearing.
2. Find the proposed site for the establishment of a park zoned for residential use is consistent with the intent of the Park and Recreation Chapter of the General Plan serving the needs of the community and Fremont's diverse population in general.
3. Recommend that the City Council find the initial study conducted for PLN2003-00160 has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources.
4. Recommend draft Negative Declaration to the City Council and find it reflects the independent judgement of the City of Fremont as indicated in Exhibit "D".
5. Recommend that the City Council approve the General Plan Conformity Finding that PLN2003-00160 is in conformance with the relevant provisions contained in the City's existing General Plan as indicated in Exhibit "B". These provisions include the designations, goals and policies set forth in the General Plan as enumerated within the staff report.
6. Approve the Conditional Use Permit for PLN2003-00160 to allow the establishment of a public park on land zoned for residential use, subject to findings and conditions as indicated in Exhibit "C".
7. Delegate to the City's Recreation Services Staff the ability to review and approve any proposed activities on the proposed site.

Exhibit "B"
Findings for General Plan Conformity
PLN2003-00160 (Marshall Parkland Acquisition)

Findings for General Plan Conformity

1. The site is suitable and adequate for the proposed project, because a public park use is consistent with the residential General Plan land use designation and residential zoning designation for the site. The site represents an important opportunity for the City to acquire land for a public park as well as satisfy a portion of the City's obligation to expand the park system to serve the community.
2. The proposed project would not have a substantial adverse effect on traffic and pedestrian circulation, the planned capacity of the street, pedestrian way system or other public facilities or services because the proposed site affords sufficient pedestrian and bicycle access from the existing Marshall Neighborhood Park and Curtis Street and through gateways in the fence line bordering its northern boundary. Additionally, an off-street vehicular parking lot is located on Curtis Street that provides parking for those using the park's facilities.
3. The proposed project is compatible with existing residential development within the district and its surroundings in that it is currently fully developed and provides for parkland serving adjacent residential neighborhoods and the community.
4. No public improvements are required for the proposed project at this time. Any public improvements or facilities required in the future will be directly attributable to public park use, and will be required for reasons related to public health, safety and welfare.
5. The proposed use is visually, physically and functionally compatible with the neighboring residential characteristics.
6. The proposed project will contribute to the City's open space and recreational amenities.

Exhibit "C"
Findings and Conditions of Approval for Conditional Use Permit
Establishment of Public Park at 5301 Curtis Street
PLN2003-00160 (Marshall Parkland Acquisition)

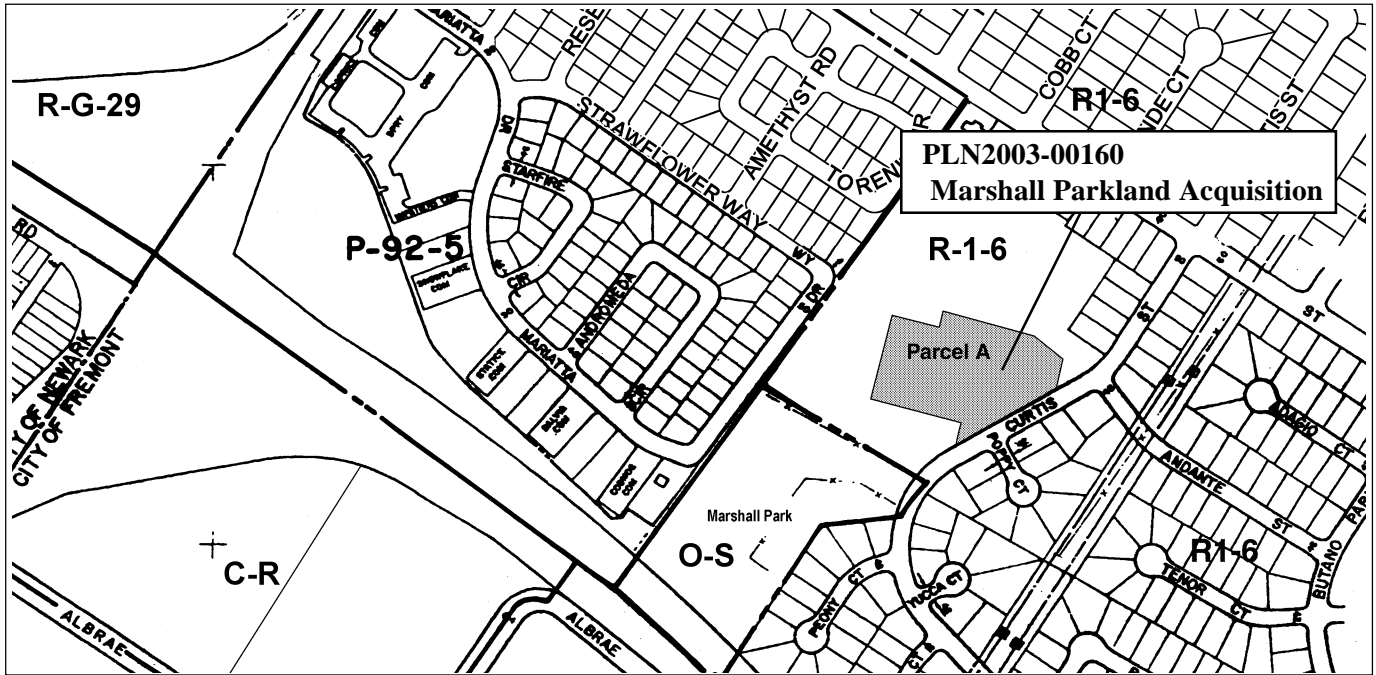
Findings for Conditional Use Permit

1. The proposed project is consistent with intent of the General Plan because the establishment of a public park at this location increases the availability of parkland evenly distributed throughout the City. The public amenities at this site will meet the community's needs by providing four ball fields and grass area with trees for public enjoyment. In addition, public parks located in residentially designated areas are vital to the daily recreational needs of the community.
2. The site is suitable and adequate for the proposed establishment of a public park because it affords sufficient area ideal for recreational activities generally engaged in at a public park. Moreover, the site is currently developed and has been used by the community for ball games and practice for more than thirty years.
3. The proposed establishment of a public park at the site would not have a substantial adverse economic effect on nearby uses because there is no commercial aspect associated with a public park, except for a refreshment booth which operates only during league games to serve players. The league's use of the fields requires them to maintain the refreshment booth and cleanup after all games. A public park provides a service to the community, particularly for its surrounding neighborhood.
4. The proposed public park establishment at the site would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because its goal is to provide recreational enjoyment for not only the neighbors located in the immediate vicinity but for the community at large. The Recreation Commission will be charge with reviewing, approving, and monitoring uses located on the site to ensure that the park's establishment does not compromise the quality of life for adjacent neighbors in particular.
5. The proposed establishment of the public park on the site does not involve any new structures or improvements. As such, the site's existing condition containing ball and grass fields with limited accessory structures is compatible with its surrounding area.
6. No improvements are proposed for the establishment of public park at this time.

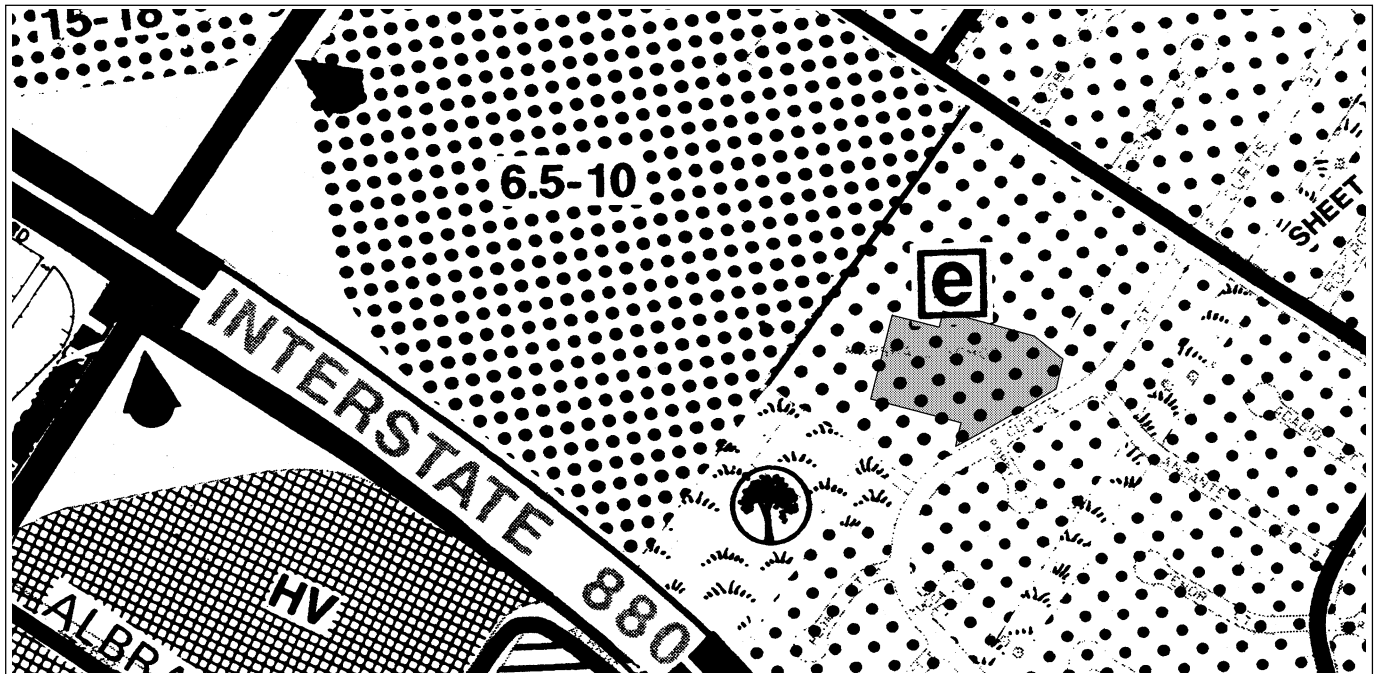
Conditions of Approval

1. The proposed project shall conform to Exhibit "A" (Site Plan), and all conditions of approval set forth herein.
2. The City's Recreation Services Staff will be charged with reviewing, approving and monitoring uses found appropriate for a public park at the site, consistent with current city practices.
3. The Conditional Use Permit shall become effective only upon acquisition of the site by the City of Fremont.

INFORMATIONAL



Existing Zoning



Existing General Plan

Project Number:

PLN2003-00160 (F, CUP)

Project Name:

Marshall Parkland Acquisition

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Note: Prior arrangements for access are not required for this site.

